



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
www.uspto.gov

FISH & RICHARDSON P.C.  
P.O. Box 1022  
MINNEAPOLIS MN 55440-1022

**MAILED**

**FEB 02 2012**

**OFFICE OF PETITIONS**

In re Application of	:	
Perelman et al.	:	
Application No. 10/006260	:	DECISION ON APPLICATION
Filing or 371(c) Date: 11/02/2001	:	FOR PATENT TERM ADJUSTMENT
Attorney Docket Number:	:	
07844-501001	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed January 5, 2012. Applicants petition for reconsideration of the patent term adjustment calculation to 2832 days, not 2805 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction based upon an assertion that the Office erred in calculating a reduction of two (2) days pursuant to 37 CFR 1.704(b), and erred in failing to calculate an adjustment of 13 days pursuant to 37 CFR 1.702(a)(2).

The Application for Patent Term Adjustment under 37 CFR 1.705(b), is **GRANTED TO THE EXTENT INDICATED HEREIN.**

The application was filed on November 2, 2001. On October 28, 2011, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 2805 days.

On January 5, 2012, Applicants timely submitted the present application for patent term adjustment<sup>1</sup>. Applicants assert that the Office erred in calculating a reduction of two (2) days pursuant to 37 CFR 1.704(b), in connection with the filing of a Notice of Appeal in reply to a final Office action mailed July 19, 2005. Applicants aver that the Notice of Appeal was filed on October 19, 2005, and that the Office errantly entered the filing date of the Notice of Appeal as November 1, 2005, three months and two (2) days after the mailing of the final Office action.

Applicants also assert that the Office erred in failing to calculate an adjustment of 13 days in connection with the mailing of an Office action on November 13, 2007, four (4) months and 13

<sup>1</sup> Office records show that the Issue Fee payment was received in the Office on January 26, 2012.

days after the mailing of the Decision of the Board of Patent Appeals and Interferences ("Board").

Applicants' arguments have been carefully considered. A review of Office records confirms that Applicants filed a Notice of Appeal in reply to a final Office action mailed July 19, 2005, on November 1, 2005. A review of the Notice of Appeal reveals that it contains a Certificate of Transmission by Facsimile dated November 1, 2005. Office records further reveal that Applicants included with the Notice of Appeal a request and fee for a one (1) month extension of time, and this Office received the fee for a one (1) month extension of time on November 1, 2005. In view of the foregoing, the reduction of two (2) days in connection with the filing of a Notice of Appeal in reply to a final Office action mailed July 19, 2005, on November 1, 2005, is appropriate and will not be removed.

Office records also confirm that after the Board's decision, mailed on June 15, 2011, this Office mailed a Notice of Allowance and Issue Fee Due on October 18, 2011, four months and 13 days after the mailing of the Board's Decision. Pursuant to 37 CFR 1.702(a)(3), an entry of a period of adjustment of 13 days is appropriate.

In view thereof, the correct Patent Term Adjustment at the time of the mailing of the Notice of Allowance is 2818 days, subject to any terminal disclaimer.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

The application is being forwarded to the Publications Division for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

- Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods  
Attorney  
Office of Petitions

Enclosure: Copy of Adjustment PAIR Calculations



# Patent Term Adjustments



PTA/PTE Information    Patent Term Adjustment    Patent Term Extension

Application Number\*: 10006260    Search    Explanation of PTA Calculation    Explanation of PTE Calculation

## PTA Calculations for Application: 10006260

Application Filing Date	11/02/2001	Overlapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays	2809
A Delays	756	PTO Manual Adjustment	13
B Delays	0	Applicant Delay (APPL)	4
C Delays	2053	Total PTA (days)	2818

\* - Sorted Column

## File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
103	01/31/2012		P028	Adjustment of PTA Calculation by PTO	13		0
89	10/28/2011		MN/=	Mail Notice of Allowance			0
88	10/26/2011		OAR	Office Action Review			0
87	10/26/2011		OAR	Office Action Review			0
86	10/26/2011		OAR	Office Action Review			0
85	10/21/2011		OAR	Office Action Review			0
84	10/21/2011		OAR	Office Action Review			0
83	10/21/2011		OAR	Office Action Review			0
82	10/21/2011		OAR	Office Action Review			0
81	10/21/2011		OAR	Office Action Review			0
80	10/21/2011		OAR	Office Action Review			0
79	10/11/2011		OAR	Office Action Review			0
78	10/11/2011		OAR	Office Action Review			0
77	10/11/2011		OAR	Office Action Review			0
76	10/11/2011		DVER	Document Verification			0
75	10/11/2011		IREV	Issue Revision Completed			0
74	10/03/2011		OAR	Office Action Review			0
73	10/03/2011		OAR	Office Action Review			0
72	10/03/2011		OAR	Office Action Review			0
71	10/03/2011		OAR	Office Action Review			0
70	10/03/2011		OAR	Office Action Review			0
69	10/03/2011		OAR	Office Action Review			0
68	10/03/2011		N/=	Notice of Allowance Data Verification Completed			0
67	10/03/2011		EX.A	Examiner's Amendment Communication			0
65	10/03/2011		CNTA	Allowability Notice			0
66	09/29/2011		EXIE	Interview Summary - Examiner Initiated			0
64	06/15/2011		ELC_RVW	Electronic Review			0
63	06/15/2011		EML_NTF	Email Notification			0
62	06/15/2011	11/01/2005	MAPDR	Mail BPAI Decision on Appeal - Reversed	2053		33
61	06/13/2011		APDR	BPAI Decision - Examiner Reversed			0
60	02/17/2010		INHY	case Inherited			0
57	06/04/2009		EML_NTR	Email Notification			0
56	06/04/2009		AP_DK_M	Docketing Notice Mailed to Appellant			0
55	06/02/2009		APAS	Assignment of Appeal Number			0
54	04/14/2009		APWD	Appeal Awaiting BPAI Docketing			0
53	04/09/2009		EML_NTR	Email Notification			0
52	04/09/2009		HM327	Mail Miscellaneous Communication to Applicant			0
51	04/04/2009		M327	Miscellaneous Communication to Applicant - No Action Count			0
49	10/07/2008		DOCK	Case Docketed to Examiner in GAU			0
48	12/19/2007		LET	Miscellaneous Incoming Letter			0
47	11/13/2007		MM327	Mail Miscellaneous Communication to Applicant			0
46	11/09/2007		M327	Miscellaneous Communication to Applicant - No Action Count			0
50	07/12/2007		APRD	Order Returning Undocketed Appeal to the Examiner			0
45	06/28/2007		APWD	Appeal Awaiting BPAI Docketing			0
44	09/08/2006		MRBNE	Mail Reply Brief Noted by Examiner			0
43	09/05/2006		RBNE	Reply Brief Noted by Examiner			0
42	06/27/2006		FWDX	Date Forwarded to Examiner			0
39	06/14/2006		DOCK	Case Docketed to Examiner in GAU			0
41	06/09/2006		APRB	Reply Brief Filed			0
38	04/10/2006		MAPEA	Mail Examiner's Answer			0
37	03/31/2006		APEA	Examiner's Answer to Appeal Brief			0
36	01/25/2006		FWDX	Date Forwarded to Examiner			0
35	01/03/2006		AP.B	Appeal Brief Filed			0
32	11/03/2005		MAPCP	Mail Appeals conf. Proceed to BPAI			0
34	11/01/2005		AP.C	Request for Pre-Appeal Conference Filed			0
33	11/01/2005		N/AP	Notice of Appeal Filed			0

31	10/31/2005	APCP	Pre-Appeals Conference Decision - Proceed to BPAI		0
30	10/21/2005	AP.C	Request for Pre-Appeal Conference Filed		0
29	10/21/2005	10/19/2005 N/AP	Notice of Appeal Filed	2	21
28	10/21/2005	XT/G	Request for Extension of Time - Granted		0
27	10/06/2005	MCTAV	Mail Advisory Action (PTOL - 303)		0
26	10/03/2005	CTAV	Advisory Action (PTOL-303)		0
23	09/23/2005	FWDX	Date Forwarded to Examiner		0
22	09/19/2005	A.NE	Amendment after Final Rejection		0
21	07/19/2005	MCTFR	Mail Final Rejection (PTOL - 326)		0
20	07/18/2005	CTFR	Final Rejection		0
17	05/18/2005	FWDX	Date Forwarded to Examiner		0
19	04/29/2005	RCAP	Reference capture on IDS		0
18.7	04/29/2005	04/29/2005 M844	Information Disclosure Statement (IDS) Filed		16
18	04/29/2005	WIDS	Information Disclosure Statement (IDS) Filed		0
16	04/29/2005	04/27/2005 A...	Response after Non-Final Action	2	13
15	04/28/2005	MEXIN	Mail Examiner Interview Summary (PTOL - 413)		0
14	04/26/2005	EXIN	Examiner Interview Summary Record (PTOL - 413)		0
13	01/27/2005	01/02/2003 MCTNF	Mail Non-Final Rejection	756	0.5
12	01/21/2005	CTNF	Non-Final Rejection		0
11	01/06/2005	DOCK	Case Docketed to Examiner in GAU		0
10	10/28/2004	TSSCOMP	IFW TSS Processing by Tech Center Complete		0
9	12/30/2003	DOCK	Case Docketed to Examiner in GAU		0
8	12/12/2003	DOCK	Case Docketed to Examiner in GAU		0
40	03/26/2002	RCAP	Reference capture on IDS		0
6	02/24/2002	DOCK	Case Docketed to Examiner in GAU		0
5	01/17/2002	OIPE	Application Dispatched from OIPE		0
4	01/15/2002	COMP	Application Is Now Complete		0
2	12/19/2001	SCAN	IFW Scan & PACR Auto Security Review		0
1	11/02/2001	IEXX	Initial Exam Team nn		0
0.5	11/02/2001	EFILE	Filing date		0

Export to: Excel